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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,159	04/12/2004	John Hevesi	22306.0101PTUS	2644
41434	7590	01/22/2009		
PATTON BOGGS LLP 2550 M STREET NW WASHINGTON, DC 20037-1350			EXAMINER SWINEHART, EDWIN L	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/822,159

**Applicant(s)**

HEVESI ET AL.

**Examiner**

Ed Swinehart

**Art Unit**

3617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-10, 18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10, 18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/16/2008 has been entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 18 and 20-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 18 is directed towards New Matter. Specifically, no basis exists for claiming "at least three ribs". Applicant discloses "at least one", and illustrates three ribs, however the claims as now presented set forth three or more, and basis does not exist in the disclosure as originally filed for more than three ribs. Such is New Matter.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. .

Abbenhouse et al. discloses a fiber reinforced composite paddle blade having a "skeleton" **75** with two ribs extending towards the outer periphery, and ending substantially at the periphery as claimed. The skeleton, being of a single piece of foam, is covered top and bottom by a composite skin, and attached to shaft as claimed. The rib may be said to include the form **75**, therefore, rib and blade are made of different materials as claimed. Abbenhouse et al. fails to show three or more ribs as now claimed.

Abbenhouse et al. sets forth no criticality for having only two ribs, and therefore it is considered to have been an obvious design expedient to the ordinary routineer working in the art at the time of the invention to provide as many such ribs as desired, for example four. Such would have provided the routineer with exactly the results as would be expected. It should also be noted that the present application sets forth no criticality for three ribs.

Re "injection molding" and "molded", such are method of making, which is accorded no weight in these apparatus claims.

6. Claims 1,3-6,9,10,18 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. in view of Sweetland.

Abbenhouse et al. discloses an inner "skeleton" **75** covered top and bottom by a composite skin, and attached to shaft as claimed. Abbenhouse et al. fails to show a grip as is old and well known in the art.

Sweetland shows the field of the invention, including a reduced diameter cylindrical portion **62**, which longitudinally locks a grip therein. Sweetland teaches provision of holes **30** within the handle of the figure 3 embodiment for cooperating with formed "ridges" to secure the handle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Abbenhouse et al. a grip as taught by Sweetland.

Such a combination would have been desirable at the time of the invention so as to provide a sure grip for the user.

Re "injection molded", such is method of making, carrying no weight in the claims.

The exact plastic used in the construction is considered to have been an obvious design consideration, providing exactly the results as would be expected. The routineer working in the art would have knowledge of available plastics and their properties, and to choose and substitute known materials to achieve predictable results would not be patentable.

Re "wing shaped", such fails to define any specific structure and/or arrangement so as to define over Abbenhouse et al.

Re "at least one rib that extends distally from the longitudinal centerline...", such fails to define over Abbenhouse, and the illustrated ribs are distant from the centerline, and extend towards the outer periphery.

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. in view of Sweetland as applied to claim 1 above, and further in view of Bruce.

Bruce teaches a bent shaft.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide bent shaft portions to Abbenhouse as taught by Bruce.

Such a combination would have been desirable at the time the invention was made so as to provide a more ergonomic shape.

8. Applicant's arguments filed 12/16/2008 have been fully considered but are not deemed persuasive.

Applicant argues that Abbenhouse et al. fails to show three ribs that extend distally from the longitudinal centerline of a single-piece skeleton towards the outer periphery of the paddle blade. Applicant further argues that Abbenhouse et al. fails to show a single piece skeleton and an injection molded outer surface that encloses and directly contacts the single piece skeleton. Applicant further argues that Abbenhouse et al. fails to show his branches or ribs ending substantially at the outer periphery of the blade.

The examiner does not agree. The phrase "ending substantially at said outer periphery" does require that the ribs extend to the periphery. The term "substantially"

broadens the limitation, such that all is required is such ribs extend to a point/position that is very close, which is clearly shown in figure 1a of Abbenhouse et al. The phrase "injection molded" is a method of making which carries no weight in applicant's apparatus claims.

Applicant argues that internal foam of Abbenhouse et al. does not carry any load and is therefore not load bearing.

In response, the internal skeleton of Abbenhouse et al. will inherently carry some load, however, such is not required, as such has not been claimed.

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Swinehart/  
Primary Examiner  
Art Unit 3617



